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STATE 348114

E.O. 12356: DECL: OADR
TAGS: SHUM, MASS, OECD, OPRC, AR, CI, UK
SUBJECT: - REPORT ON CERTIFICATION DECISION

REF: STATE 344363

1. [REDACTED] ENTIRE TEXT.

2. THE DOCUMENTS FOR THE PRESIDENT'S DETERMINATION ON CERTIFICATION, WHICH ARE STILL PENDING FINAL APPROVAL, CONSIST OF THE CERTIFICATION ITSELF AND THE ACCOMPANYING DETAILED REPORT CALLED "OR BY THE LAW. ONLY THE PRESIDENTIAL DETERMINATION ITSELF" IS REQUIRED TO BE PUBLISHED IN THE FEDERAL REGISTER IF THERE ARE NO NATIONAL SECURITY REASONS WHY IT SHOULD NOT BE PUBLISHED. THE ACCOMPANYING REPORT WILL BE PROVIDED TO CONGRESS ON AN UNCLASSIFIED BASIS. WHILE WE DO NOT INTEND TO DISTRIBUTE IT NOR PUBLISH IT IN THE FEDERAL REGISTER, IT WILL BE AVAILABLE TO THE PUBLIC-HERE. BOTH ARE PROVIDED IN ADVANCE FOR POSTS' BACKGROUND ONLY AND ARE NOT TO BE RELEASED TO THE PUBLIC. PARA 3 CONTAINS THE TEXT OF THE REPORT. PARA 4 IS THE TEXT OF THE PRESIDENTIAL DETERMINATION. BEGIN TEXT:

3. MEMORANDUM OF JUSTIFICATION

INTRODUCTION -- SECTION 725 (B) OF THE INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981 (PUBLIC LAW 97-113) PERMITS PROVISION OF SECURITY ASSISTANCE TO ARGENTINA UNDER CERTAIN CIRCUMSTANCES. THIS PROVISION REPLACES THE PROHIBITIONS CONTAINED IN FORMER SECTION 620B OF THE FOREIGN ASSISTANCE ACT, ON PROVISION TO ARGENTINA OF ASSISTANCE UNDER CHAPTER 2 (MILITARY ASSISTANCE PROGRAM), CHAPTER 4 (ECONOMIC SUPPORT FUND), CHAPTER 5 (INTERNATIONAL MILITARY EDUCATION AND TRAINING) OR CHAPTER 6 (PEACEKEEPING OPERATIONS) OF PART II OF THE FOREIGN ASSISTANCE ACT, AS WELL AS THE EXTENSION OF CREDITS, SALES OR EXPORT LICENSES TO ARGENTINA UNDER THE ARMS EXPORT CONTROL ACT.

THE ACTIVITIES OTHERWISE PROHIBITED BY SECTION 725 MAY BE CARRIED OUT ONLY IF THE PRESIDENT HAS SUBMITTED TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRMAN OF THE COMMITTEE ON FOREIGN RELATIONS OF THE SENATE A DETAILED REPORT CERTIFYING THAT:

(1) THE GOVERNMENT OF ARGENTINA HAS MADE SIGNIFICANT PROGRESS IN COMPLYING WITH INTERNATIONALLY RECOGNIZED PRINCIPLES OF HUMAN RIGHTS, AND

(2) THE PROVISION OF SUCH ASSISTANCE, CREDITS, LOAN GUARANTEES, DEFENSE ARTICLES, DEFENSE SERVICES, OR EXPORT LICENSES IS IN THE NATIONAL INTERESTS OF THE UNITED STATES.

IN THE PROCESS OF MAKING THIS CERTIFICATION, AMONG OTHER THINGS, THE PRESIDENT IS TO CONSIDER EFFORTS BY THE GOVERNMENT OF ARGENTINA TO PROVIDE INFORMATION ON CITIZENS IDENTIFIED AS "DISAPPEARED" AND TO RELEASE OR BRING TO JUSTICE THOSE PRISONERS HELD AT THE DISPOSITION OF THE NATIONAL EXECUTIVE POWER ORIGIN.

IN THE ATTACHED DETERMINATION AND THIS REPORT, THE PRESIDENT MAKES THIS CERTIFICATION, THUS-REMOVING-THE PROHIBITIONS CONTAINED IN SECTION 725.

HUMAN RIGHTS -- ARGENTINA HAS MADE DRAMATIC PROGRESS IN IMPROVING ITS HUMAN RIGHTS ENVIRONMENT IN RECENT MONTHS AND IN OVERCOMING THE PROBLEMS OF THE LAST DECADE. IN THE 1970S, ARGENTINA WAS BESET BY RAMPANT TERRORISM FROM BOTH EXTREMES OF THE POLITICAL SPECTRUM.

ON MARCH 24, 1976, AN ELECTED CIVILIAN GOVERNMENT IN ARGENTINA WAS OVERTHROWN BY THE ARGENTINE ARMED FORCES.

THIS ACTION WAS JUSTIFIED BY THE MILITARY AS NECESSARY BECAUSE THE EXISTING GOVERNMENT APPEARED TO THE MILITARY TO BE INCAPABLE OF DEALING WITH THE PROBLEMS OF TERRORISM AND INFLATION.

IN THE YEARS IMMEDIATELY FOLLOWING THE MILITARY TAKEOVER, THE GOVERNMENT GREATLY EXPANDED EFFORTS TO CRUSH EXTREMIST GROUPS. WHILE THIS CAMPAIGN WAS LARGELY SUCCESSFUL IN REDUCING LETIST TERRORIST ACTIVITIES, MAJOR VIOLATIONS OF HUMAN RIGHTS AND INDIVIDUAL LIBERTIES TOOK PLACE. FREEDOM OF THE PRESS WAS SEVERELY RESTRICTED. POLITICAL PARTY AND TRADE UNION ACTIVITIES WERE SUSPENDED AND FREEDOM OF ASSEMBLY DENIED. MANY PEOPLE WERE ARRESTED AND HELD BY THE SECURITY FORCES WITHOUT DUE PROCESS; THOUSANDS SIMPLY DISAPPEARED AND ARE PRESUMED TO BE DEAD. TORTURE WAS WIDELY PRACTICED.

FOLLOWING A GOVERNMENT ANNOUNCEMENT IN EARLY 1978 THAT THE SO-CALLED "DIRTY WAR" AGAINST TERRORISM HAD BEEN WON, THE NUMBER OF HUMAN RIGHTS VIOLATIONS BEGAN TO DECLINE SHARPLY, BUT THE HUMAN RIGHTS SITUATION REMAINED SERIOUS.

IN JULY OF 1982, IN THE WAKE OF THE SOUTH ATLANTIC CONFLICT, A NEW MILITARY GOVERNMENT WAS INSTALLED, HEADED BY PRESIDENT REYNALDO BIGNONE. THE NEW GOVERNMENT ANNOUNCED IT WAS A GOVERNMENT OF TRANSITION WHOSE MAIN TASK WAS TO OVERSEE THE RETURN TO DEMOCRATICALLY ELECTED GOVERNMENT IN ARGENTINA. UNDER PRESIDENT BIGNONE, THE NEW GOVERNMENT:

- LIFTED THE BAN ON POLITICAL ACTIVITY;
- PROMULGATED A NEW POLITICAL PARTIES LAW;
- ANNOUNCED THAT NATIONAL ELECTIONS WOULD BE HELD IN LATE 1983, WITH INAUGURATION OF A DEMOCRATICALLY ELECTED CONGRESS AND PRESIDENT TO TAKE PLACE EARLY IN 1984;
- GRADUALLY REMOVED RESTRICTIONS ON THE PRESS AND OTHER MEDIA;
- RELAXED CONSTRAINTS ON TRADE UNION ACTIVITY;
- LIFTED THE STATE OF SIEGE AND RELEASED OR REMANDED FOR

ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPS

Margaret P. Grafeld, Director

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TRIAL BY CIVILIAN COURTS ALL THOSE HELD WITHOUT CHARGES UNDER THE NATIONAL EXECUTIVE POWER (PEN PRISONERS), AND

- took measures which reduced sharply the number of

REPORTS OF HUMAN RIGHTS VIOLATIONS BY THE SECURITY FORCES.

AS A RESULT OF THESE MEASURES THE SITUATION, WITH RESPECT TO HUMAN RIGHTS AND INDIVIDUAL FREEDOMS, IMPROVED - - DRAMATICALLY IN ARGENTINA. THE STAGE WAS ALSO SET FOR A RETURN TO DEMOCRATIC GOVERNMENT, A MOVE THAT WOULD HELP INSTITUTIONALIZE THE POLITICAL AND HUMAN FREEDOMS OF - - INDIVIDUAL ARGENTINES. IN ADDITION, THERE HAVE BEEN NO PERMANENT DISAPPEARANCES IN THE LAST THREE YEARS. - -

ON OCTOBER 30, THE ARGENTINE PEOPLE WENT TO THE POLLS AND ELECTED A PRESIDENT, VICE PRESIDENT, CONGRESS AND SOME 14,000 OTHER OFFICIALS IN ONE, HONEST AND - - FAIR ELECTIONS. THE NEW GOVERNMENT IS BEING INSTALLED ON DECEMBER 10. THE CAMPAIGN LEADING UP TO THE ACTUAL ELECTIONS WAS ORDERLY AND NOTICIOUSLY CONTESTED. - -

THE MOST CONTROVERSIAL HUMAN RIGHTS ISSUE WITH WHICH THE ARGENTINES THEMSELVES MUST DEAL IS THE QUESTION OF - - ACCOUNTING FOR THE THOUSANDS OF PEOPLE WHO WERE ARRESTED BY GOVERNMENT SECURITY FORCES AND WHO SUBSEQUENTLY - - DISAPPEARED, MOSTLY DURING THE LATE 1970S. - ESTIMATES ON THE NUMBER OF PEOPLE INVOLVED RANGE FROM 6,000 TO - - 30,000. THE MILITARY GOVERNMENTS THAT RULED ARGENTINA HAVE NEVER RENDERED A SATISFACTORY ACCOUNTING. - - THE UNITED STATES HAS EXPLORED THE VIOLATIONS OF BASIC HUMAN RIGHTS THAT OCCURRED DURING THE 1970S IN ARGENTINA, INCLUDING THE THOUSANDS OF DISAPPEARANCES. THE UNITED STATES HAS ALSO CONTINUOUSLY ENCOURAGED THE ARGENTINE GOVERNMENT TO PROVIDE AS FULL AN ACCOUNTING AS POSSIBLE ON THE DISAPPEARANCES TO THE ARGENTINE PEOPLE. WHEN THE - - ARGENTINE GOVERNMENT'S REPORT ON THE DISAPPEARANCES, - - RELEASED IN APRIL, DID NOT PROVIDE A SATISFACTORY ACCOUNTING, THE UNITED STATES EXPRESSED ITS DISAPPOINTMENT THAT AN OCCASION HAD BEEN LOST TO BEGIN THE RESOLUTION OF THIS QUESTION.

ANOTHER CONTROVERSIAL INTERNAL POLITICAL ISSUE IS THE ARGENTINE GOVERNMENT'S DECISION TO ISSUE AN AMNESTY - - DECREE ON SEPTEMBER 23, GRANTING IMMUNITY TO ALL THOSE WHO MAY BE LIABLE TO LEGAL PROSECUTION FOR ACTS COMMITTED DURING THE "DIRTY WAR." THIS DECREE HAS BEEN WIDELY - - CRITICIZED, AND HAS BEEN DECLARED UNCONSTITUTIONAL BY A NUMBER OF ARGENTINE JUDGES. BOTH OF THESE ISSUES ARE THE SUBJECT OF MUCH DISCUSSION WITHIN ARGENTINA. THE - - ALFONSIN GOVERNMENT HAS INDICATED THAT THESE ISSUES WILL BE ADDRESSED. - - - -

THE PROCESS OF IMPROVEMENT IN THE OBSERVANCE AND PROTECTION OF INTERNATIONALLY-RECOGNIZED PRINCIPLES OF HUMAN RIGHTS ACCELERATED AS ARGENTINA SUCCESSFULLY MADE ITS TRANSITION TO DEMOCRACY. THE INAUGURATION OF - - PRESIDENT-ELECT ALFONSIN ON DECEMBER 10 REPRESENTS A MAJOR STEP IN THIS PROCESS. A DEMOCRATICALLY-ELECTED GOVERNMENT IS ONE OF THE BEST GUARANTEES OF RESPECT - - FOR HUMAN RIGHTS. - - - -

US NATIONAL INTERESTS - RESTORATION OF ARGENTINA'S ELIGIBILITY FOR SECURITY ASSISTANCE AND DEFENSE TRANSFERS REMOVES AN IMPEDIMENT TO IMPROVED RELATIONS WITH THE NEW, DEMOCRATICALLY ELECTED GOVERNMENT OF ONE OF THE MAJOR - - COUNTRIES IN LATIN AMERICA, THUS SETTING THE STAGE FOR COOPERATION ON MULTI-LATERAL ISSUES, PEACEFUL EFFORTS TO RESOLVE REGIONAL DISPUTES, ECONOMIC PROBLEMS AND NUCLEAR NON-PROLIFERATION. - - - -

CONVERSELY, TO CONTINUE TO "BLACKLIST" ARGENTINA WHEN THERE HAS BEEN SIGNIFICANT HUMAN RIGHTS IMPROVEMENT - WOULD BE TO CREATE AN ISSUE WITH THE NEW GOVERNMENT WHERE ONE - SHOULD NOT AND NEED NOT EXIST. - - - -

CERTIFICATION IS CONSISTENT WITH OUR GLOBAL SUPPORT FOR DEMOCRACY. ARGENTINA HAS JUST HELD FREE AND DEMOCRATIC ELECTIONS WITH IMPRESSIVE POPULAR PARTICIPATION. CERTIFICATION WOULD BE A GESTURE OF SUPPORT FOR ARGENTINA'S RETURN TO DEMOCRACY, AND OUR SUPPORT FOR STRONG DEMOCRATIC INSTITUTIONS IN ARGENTINA WILL HAVE AN IMPORTANT IMPACT IN STRENGTHENING THE REGIONAL TREND - - TOWARD DEMOCRACY. - - - -

CERTIFICATION IS CONSISTENT WITH OUR GLOBAL POLICY OF SUPPORT FOR HUMAN RIGHTS AND INDIVIDUAL LIBERTIES. TO DENY CERTIFICATION WOULD BE TO DENY HUMAN RIGHTS PROGRESS WHERE SUCH PROGRESS IS CLEARLY EVIDENT, REDUCING THE CREDIBILITY OF US HUMAN RIGHTS POLICIES WORLDWIDE.

CERTIFICATION STRENGTHENS OUR TIES WITH THE ARGENTINE MILITARY, ENHANCING OUR ABILITY BOTH TO ENCOURAGE - - COOPERATION ON SECURITY AND POLICIES OF MUTUAL INTEREST AND TO REINFORCE SUPPORT FOR DEMOCRACY AND HUMAN RIGHTS POLICIES. - - - - ; S

IN SUM, CERTIFICATION SUPPORTS IMPORTANT US INTERESTS AND OBJECTIVES IN TERMS OF OUR BILATERAL RELATIONSHIP WITH ARGENTINA, OUR INTERESTS IN THE REGION OF THE SOUTHERN CONE, AND GLOBAL POLITICAL AND SECURITY INTERESTS. END TEXT. - - INTERESTS. END

4. TEXT OF PRESIDENTIAL DETERMINATION:

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: ARGENTINE CERTIFICATION

PURSUANT TO SECTION 725 (B) OF THE INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981, I HEREBY - - DETERMINE AND CERTIFY:

(1) THAT THE GOVERNMENT OF ARGENTINA HAS MADE SIGNIFICANT PROGRESS IN COMPLYING WITH INTERNATIONALLY RECOGNIZED PRINCIPLES OF HUMAN RIGHTS, AND - - - -

(2) THAT THE ELIGIBILITY OF ARGENTINA FOR THE PROVISION OF SECURITY ASSISTANCE AND THE TRANSFER OF DEFENSE ARTICLES AND DEFENSE SERVICES, AND THE PROVISION AND TRANSFER THEREOF, IN ACCORDANCE WITH THE FOREIGN ASSISTANCE ACT OF 1961 AND THE ARMS EXPORT CONTROL ACT, ARE IN THE NATIONAL INTERESTS OF THE UNITED STATES.

THIS DETERMINATION, TOGETHER WITH THE JUSTIFICATION THEREFOR, SHALL BE REPORTED TO THE CONGRESS. THIS DETERMINATION SHALL BE PUBLISHED IN THE FEDERAL REGISTER. END TEXT. DAN